

REMARKS

Claims 46-74 remain in the application. Reexamination and reconsideration of the application are respectfully requested.

Applicants note with appreciation the Examiner's acknowledgement that the arguments made in the amendment filed 4/16/2008, with respect to rejections under 35 USC 102 and 103 and the double patenting rejection, are persuasive in light of the amendments to independent claims 46, 54, 61 and 66.

Claims 46-74 now stand rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (JP H9-251347) in view of Chalk et al. (WO 03/044645 A1), viewed together or in combination with an additional reference. With respect to claims 46-48, 52, 54-56, 61 and 66 the Examiner stated:

. . . Takahashi discloses all limitations of these claims except for the touchpad moving in a multiple degrees of freedom and each of the multiple degrees of freedom is associated with a function of the device, as presently claimed.

However, Chalk discloses a device (10) including a cradle (14; Fig. 2D) capable of a gimbal action relative to the housing (11; Fig. 2D) and the gimbal action of the cradle (14) being configured to enable the cradle (14) to float relative to the housing (11) while being constrained thereto (Fig. 2D), thereby enabling the cradle (14) to move in multiple degrees of freedom relative to the housing (11), wherein each of the multiple degrees of freedom is associated with a (East, North, South, or West click) function of the device and the gimbal action of the cradle enables a user to make a selection (Figs 4-8). The movement of the cradle in additional degrees of freedom provides the device capable of providing more functions associated with the additional degrees of freedom. Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of moving the cradle in multiple degrees of freedom relative to the housing, wherein each of the multiple degrees of freedom is associated with a function of the device, as taught in the Chalk reference, to improve the device of Takahashi for the predictable result of enabling the touchpad to move in multiple degrees of freedom relative to the housing, thereby providing each of the multiple degrees of freedom associated with a function of the device.

These rejections are respectfully traversed.

Claims 46-74 are directed to a portable media device comprising a number of elements in combination. In representative claim 46, for example, the claimed combination includes a housing and an input device. The input device includes a touchpad associated with the housing. The touchpad is configured to receive rotational inputs and is capable of a “gimbal” action relative to the housing. The “gimbal” action of the touchpad is configured to enable the touchpad to “float” relative to the housing while being constrained thereto, thereby enabling the touchpad to move in multiple degrees of freedom relative to the housing. Each of the multiple degrees of freedom is associated with a function of the device. The “gimbal” action of the touchpad enables a user of the portable media device to make a selection.

An example of the embodiment defined by claim 46 is described in paragraph 0061 of the present application and illustrated in Figures 7A-D. As described and illustrated, in this embodiment the touchpad 72 is configured to “gimbal” relative to the frame 76. In this context “gimbal” generally means that the touchpad 72 is able to “float” in space relative to the frame 76 while still being constrained thereto. As shown in Figures 7A-7D, in this embodiment the touchpad is capable of moving within a cavity while being prevented from moving out of the cavity via the walls of the housing. In this embodiment the touchpad floats in space relative to the housing while still being constrained thereto. This is referred to as a “gimbal.” The “gimbal” allows the touchpad 72 to move in multiple degrees of freedom relative to the housing. For example, movements in the x, y and/or z directions or rotations about the x, y, and/or z axes.

In this example the touchpad 72 can do more than merely tilt or pivot relative to the frame. In this embodiment the touchpad can also “float” within a space of the frame. As indicated in paragraph 0047 of the present application, a touchpad that “floats” within a space of the frame (i.e., that “gimbals”) is different from a touchpad that is coupled to the frame through a ball and socket joint. The ball and socket embodiment permits the touchpad to merely pivot or tilt relative to the frame. However, the touchpad remains attached to the housing by the ball and socket joint. The touchpad cannot move in the x, y and z directions. In contrast, in the “gimbal” embodiment defined by the pending claims the touchpad is not required to be coupled to the frame and instead can *float* within a space of the frame (e.g., *gimbal*). The gimbal allows the touchpad to move in multiple

degrees of freedom relative to the housing, so that the touchpad can move in the x, y *and* z directions, for example. In other words, the gimbal allows the touchpad 72 to move in at least one additional degree of freedom, relative to the housing, compared to a touchpad that merely tilts or pivots.

The Chalk reference fails to teach or suggest a touchpad configured to gimbal. As shown in Figures 2d and 2e of Chalk and described at page 15, lines 10-13, the Chalk reference discloses a screen 13 that is attached via a ball and socket assembly 15. Chalk's ball and socket assembly may allow the screen to tilt or pivot, but Chalk's ball and socket prevents the screen from moving in the x, y *and* z directions. Chalk's ball and socket assembly permits the screen to tilt or pivot, but prevents the screen from floating within a space of the frame. The screen disclosed in Chalk does not gimbal, and there is no teaching or suggestion in Chalk of a screen that "floats" within a space of the frame. In contrast to Chalk, claims 46-74 define a combination including a gimbal action which allows the touchpad to move in at least one additional degree of freedom, relative to the housing, as compared to the tilting or pivoting provided by Chalk.

The fundamental deficiencies of the Chalk reference are not compensated by any of the additional cited and applied references. There is no teaching or suggestion in any reference of a combination including a touchpad configured to gimbal, as described and claimed in the present application. Consequently, the rejection of the claims under 35 U.S.C. 103 should be withdrawn.

The rejection on the ground of nonstatutory obviousness-type double patenting is respectfully traversed for the reasons given above with respect to the rejection under 35 USC 103. Chalk is the sole reference relied upon for an alleged teaching of gimbaling. However, for the reasons discussed above, Chalk fails to disclose or suggest gimbaling. Consequently, the rejection based on obviousness-type double patenting should be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is

determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 1068420006.00.

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